#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4352 OF 2006

Chirag Kothari .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Shirish Gupte, Senior Advocate with Mr.Sachin Dhakephalkar i/b. Ms.Sonal Kothari for applicant
Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 7th December 2006

P.C.

. Applicant has been arrested on 20th November 2006 in connection with C.R.No.679 of

2006 registered with Malad Police Station. Mr.Gupte submits that the applicant has been arrested on 20th November 2006 and although investigations are in progress, there is limited role attributed to the applicant. His case is distinct from that of the co-accused. Applicant has a fixed place of residence and is also a professional. In such circumstances, present applicant should be considered and the courts below were in error in refusing to grant bail to applicant even when the applicant has been remanded to judicial custody.

2. The case of the prosecution is that the complainant is working as a Senior Manager in National Securities Depository Ltd. This company has been chosen for preparation of Pan Cards by the Income Tax Department. This Authority has been given exclusively to this company. The complainant received a call from an unknown person that at a place in Malad the accused have been preparing bogus and false documents for

obtaining pancards. They have been promising people that Pan cards would be issued to them if they approached them. Necessary papers were prepared by the accused and, thereafter, Pan card would be handed over to the applicant. Thereafter, complainant brought this fact to the notice of the Senior Officers and one of the employees of the company, National Securities Depository Ltd., posed himself as a person interested in obtaining Pan card and approached the accused. Accused, thereafter, facilitated by preparing certain documents and obtained signatures of dummy customer/applicant. Thereafter, these facts were brought to the notice of police authorities and investigations at a preliminary stage indicate that role attributed to applicant accused No. 3 is distinct from that of accused Nos. 1 and 2.

3. It appears that the accused No.3 is assisting other accused by providing his service. He opened office in the name of A to Z services.

This agency is wholly unauthorised. As far as preparation of Pan card, it appears that seizure is effected from the other accused. In the above circumstances and in the facts peculiar to the applicant so also with stringent conditions, he can be enlarged on bail. Hence, following order:-

i) The applicant arrested in connection with C.R.No.679 of 2006 registered with Malad Police Station shall be enlarged on bail in the sum of Rs.20,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Malad Police Station twice a week till charge sheet is filed and thereafter as directed by the trial court. The applicant shall deposit

his passport, if any, with the I.O. Applicant shall not leave Mumbai without prior permission of the trial court.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)